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SIXTH DIVISION
December 28, 2012

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF M.L.,)	Appeal from the
)	Circuit Court of
Minor-Respondent-Appellee,)	Cook County
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	
)	No. 02 JA 1781
v.)	
)	
DWAYNE L.,)	Honorable
)	Peter Vilkelis,
Respondent-Appellant).)	Judge Presiding.
)	

PRESIDING JUSTICE LAMPKIN delivered the judgment of the court.
Justices Hall and Reyes concurred in the judgment.

ORDER

¶ 1 Held: The evidence supported the circuit court's finding that termination of the father's parental rights and appointment of a guardian with the power to consent to adoption were in the best interests of the minor.

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¶ 2 Respondent Dwayne L. was found unfit to parent his minor child, M.L., pursuant to sections 1(D)(m) and (p) of the Adoption Act of 1987 (Adoption Act) (750 ILCS 50/1(D)(m), (p) (West 2010)) and section 2-29 of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-29 (West 2010)). Specifically, the court found that respondent was unable to discharge his parental responsibilities because of mental impairment, illness or retardation; there was sufficient justification to believe that his inability to discharge parental responsibility would extend beyond a reasonable time; and, despite his commendable efforts, he had failed to make reasonable progress toward M.L.'s return home. Thereafter, the circuit court conducted a best interests hearing and terminated respondent's parental rights and appointed a guardian with the right to consent to M.L.'s adoption.

¶ 3 On appeal, respondent argues that the circuit court's best interests finding was against the manifest weight of the evidence; he does not challenge the circuit court's finding of unfitness. For the reasons that follow, we affirm the judgment of the circuit court.

¶ 4 BACKGROUND

¶ 5 Respondent was the father of M.L., who was born in March 2000. In November 2002, the State filed a petition for adjudication of wardship, alleging that M.L. was neglected because he was not receiving proper or necessary care. Specifically, M.L.'s mother, Millie L., who is not participating in this appeal, left M.L. without an adequate care plan and failed to return for him. The State also alleged that M.L.'s environment was injurious to his welfare and he was abused based on a substantial risk of physical injury because his mother, who had four other minors in the custody of the Department of Children and Family Services (DCFS), had three prior indicated

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reports for substance-exposed infant, substantial risk of harm, and substantial risk of sexual injury. The circuit court granted DCFS temporary custody of M.L.

¶ 6 In June 2003, the circuit court entered an adjudication order finding that M.L. was abused and neglected and that the abuse and neglect were inflicted by his mother. In July 2003, the court found respondent unable and Millie L. unable and unwilling to provide care for M.L., who was made a ward of the court and placed under DCFS guardianship.

¶ 7 Services were offered to the parents over several years, but their progress toward the goal of M.L.'s return home was rated as unsatisfactory. In October 2011, the State filed a supplemental petition to appoint a guardian with the right to consent to adoption, commonly referred to as a petition to terminate parental rights. The State alleged that both M.L.'s parents were unfit. Concerning respondent, the State alleged that he failed to make reasonable efforts or progress (750 ILCS 50/1D(m) (West 2010)), and was unable to discharge parental responsibilities due to mental impairment, illness or retardation or developmental disability and such inability would extend beyond a reasonable time (750 ILCS 50/1D(p) (West 2010)). The State also alleged that it was in M.L.'s best interest for him to be adopted by his foster parent, with whom he had lived since June 2006.

¶ 8 At the July 2012 fitness hearing, Dr. Heather Cintron testified as an expert in the field of clinical psychology. In November 2011, she had conducted an evaluation of respondent to consider whether he had a mental impairment, illness or retardation and, if so, how it would impact his ability to discharge parental responsibilities and the likely duration of the condition's impact on his ability to discharge parental responsibilities. Dr. Cintron reviewed records,

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interviewed the caseworker, conducted two telephone and two in-person interviews with respondent, and observed him and M.L. together in respondent's home. Respondent was polite and compliant during the evaluation.

¶ 9 Dr. Cintron testified that respondent's full scale I.Q. was 60 and he met the criteria for mild mental retardation. He struggled significantly in communicating with others and understanding what was said to him. He also was not able to use appropriate judgment and problem-solving skills. When respondent tried to help M.L.'s development and cognition by writing words on a piece of paper, M.L. would actually correct respondent. When they played a Tic-Tac-Toe game, respondent struggled with the directions, and M.L. would indicate when respondent had won the game. Respondent had never lived on his own and acknowledged that he would not be able to do so.

¶ 10 Dr. Cintron testified that M.L. had special needs and would be a difficult child for anyone to parent. He had been diagnosed with mental retardation, attention deficit hyperactivity disorder (ADHD) and post-traumatic stress disorder. He had a history of aggression and had been hospitalized on multiple occasions. He needed a structured, consistent environment with a parent who would be able to help him identify and deal with his cues and triggers for aggression. Dr. Cintron believed that respondent would significantly struggle in providing M.L. with necessary cognitive and academic support and would be unable to maintain the necessary relationships with M.L.'s service providers. There was a positive relationship between respondent and M.L., and M.L. seemed happy to see respondent. Dr. Cintron observed, however, that there was little expression of affection between them and it was very difficult for them to understand each other,

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interact and engage. Dr. Cintron testified that respondent and M.L. had to be encouraged to interact with each other.

¶ 11 Dr. Cintron testified that given respondent's diagnoses, he was not able to parent. He was already 50 years old and had participated in services, including therapy and parent coaching, but had made little progress. Dr. Cintron concluded that respondent's impaired functioning impacted his ability to live on his own, develop appropriate interpersonal relationships, effectively communicate with others, be self-directed, and utilize appropriate judgment and problem-solving skills. His limitations resulted in an inability to understand and meet M.L.'s most basic needs. Dr. Cintron opined that respondent's inability to discharge parental responsibilities would extend into the foreseeable future.

¶ 12 Caseworker Keona Moore had been assigned to M.L.'s case since May 2010. At that time, respondent was not visiting M.L. and respondent's whereabouts were unknown. After Moore conducted a search and sent a letter to respondent's home, monthly supervised visits between respondent and M.L. began in November 2010. Moore characterized the monthly visits between respondent and M.L. as "appropriate," but Moore noted that they needed her prompting and supervision. M.L. and respondent were bonded to each other and they acknowledged their father-son relationship to the best of their ability. M.L. called respondent "Dad." Due to their limitations, M.L. and respondent's visits needed a facilitator and had always been supervised. Moore stated that respondent had a hard time understanding how to engage M.L. because of his special needs. Moore had tried to engage both respondent and M.L. in games, but it seemed too complex for them, so they would watch movies instead and talk about siblings. Throughout the

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visits, M.L. had asked respondent for money, and if respondent had money, he would give it to M.L.

¶ 13 Moore testified that M.L. had special needs and would be difficult to parent, and someone with a limited I.Q. would have difficulty parenting M.L. Respondent had completed a drug and alcohol assessment and no further recommendations were made for him. He also had participated in a parenting capacity assessment. After receiving that assessment, Moore decided not to recommend unsupervised visits between respondent and M.L. Moore stated that it had been a pleasure to work with respondent, who had always been compliant with Moore.

¶ 14 The court found both parents unfit. Concerning respondent, the court commended him for the efforts he had made, but concluded that the reality of his situation prevented him from being a fit parent to M.L. The court concluded that respondent was unable to discharge his parental duties due to mental retardation; his inability to discharge those duties would extend beyond a reasonable time; and he had made—despite his efforts—little progress toward the goal of M.L.'s return home.

¶ 15 The case proceeded to the best interests hearing, where caseworker Moore testified that M.L. was placed in a non-relative specialized foster home. M.L. had been living there for the last six or seven years. The home was safe, appropriate, and there were no signs of abuse, neglect or corporal punishment. M.L. and the foster mother had bonded and had a loving relationship. M.L. called her "Mom," and looked to her to meet his needs. The foster home included the foster mother's three other adopted children. M.L. got along fine with, and was bonded to, his foster siblings. There also was a bond between M.L. and the foster mother's extended family. M.L.

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had no relationship with his biological mother and did not want to visit her or even write her a letter. M.L. enjoyed the monthly, appropriate visits with respondent, called him "Dad," and wished to continue the visits with respondent.

¶ 16 Moore testified that M.L. had been diagnosed with mild mental retardation, intermittent explosive disorder, ADHD, and post-traumatic stress disorder. He had an individual education plan for his cognitive delay and was placed in a self-contained classroom in a therapeutic day school. He was receiving mentoring, monthly medication monitoring with a psychiatrist, and weekly trauma-focused individual therapy. The foster mother was meeting all of M.L.'s needs, including taking care of his medication, advocating for him at school and taking him to all of his appointments. His foster mother was also participating in training "to have the skill set to care for [M.L.]."

¶ 17 Moore believed it was in M.L.'s best interest to maintain a relationship with respondent. A meeting and mediation session were held with staff, the foster mother and respondent concerning the issue of the foster mother facilitating the visits between respondent and M.L. and to discuss "what that visitation would look like once the agency was out of the picture." The foster mother had agreed to facilitate visitation with respondent. The foster mother had also indicated that if parental rights were terminated, she wanted the visitation between respondent and M.L. to continue and was willing to open her home to respondent or meet with him in the community.

¶ 18 Based upon the biological mother's lack of participation in services and respondent's lack of progress due to his mental capacity and "through no fault of his own," Moore believed that it

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was in M.L.'s best interests to terminate the parental rights of both the biological mother and respondent. Moore acknowledged the bond between M.L. and respondent, but felt that termination of respondent's parental rights was in M.L.'s best interests due to M.L.'s numerous issues and respondent's limited capacity.

¶ 19 The circuit court determined that it was in M.L.'s best interests to terminate the parental rights of both parents and appoint a guardian with the right to consent to M.L.'s adoption. The circuit court also stated that there was no basis in the record to support respondent's argument that the foster mother would change her mind about permitting continued contact between M.L. and respondent.

¶ 20 Respondent appealed.

¶ 21 ANALYSIS

¶ 22 Respondent contends the circuit court's decision to terminate his parental rights and appoint a guardian with the right to consent to M.L.'s adoption was against the manifest weight of the evidence. He does not challenge the circuit court's findings of unfitness. Specifically, respondent argues that the circuit court should have preserved the bond between him and M.L. by letting M.L. remain with his foster parent under a guardianship arrangement. Respondent argues that his supervised visits would not harm M.L., who wants the visits to continue.

¶ 23 If the trial court finds a parent unfit by clear and convincing evidence on one or more statutory grounds under the Adoption Act, the trial court then conducts a second, bifurcated proceeding that focuses on whether termination of parental rights and allowance of an adoption petition would be in the child's best interests. *In re Adoption of Syck*, 138 Ill. 2d 255, 277

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(1990). At a termination hearing, the focus is on the child's welfare and whether termination would improve the child's future financial, social, and emotional atmosphere. *In re D.M.*, 336 Ill. App. 3d 766, 772 (2002). When determining whether termination of parental rights is in a child's best interests, a court must consider the following statutory factors in the context of the child's age and developmental needs: (1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child. 705 ILCS 405/1-3 (4.05) (West 2010).

¶ 24 The State must prove by a preponderance of the evidence that termination is in the child's best interests. *In re D.T.*, 212 Ill. 2d 347, 366 (2004). When the sufficiency of the evidence presented at the termination hearing is challenged on appeal, the appropriate method of review is the manifest weight standard. *In re D.M.*, 336 Ill. App. 3d at 773. A decision is considered to be against the manifest weight of the evidence if the facts clearly demonstrate that the court should have reached the opposite conclusion. *In re D.M.*, 336 Ill. App. 3d at 773.

¶ 25 The evidence presented at the best interests hearing was more than sufficient to support the trial court's determination that termination of respondent's parental rights was in M.L.'s best interests. The focus at this hearing is not on the best interests of the parent, but the best interests

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of the minor. In re D.W., 214 Ill. 2d 289, 315-16 (2005). M.L., who is now 12 years old, has resided in the adoptive specialized foster home for over 6 years, and the record established that the environment was safe, appropriate and nurturing. He was attending a therapeutic day school and had special needs due to his mild mental retardation, intermittent explosive disorder, ADHD, and post-traumatic stress disorder. M.L. had a loving relationship with his foster mother, whom he called "Mom," and he looked to her to meet his many needs. He was also bonded with his three foster siblings and his foster mother's extended family. M.L.'s foster mother took M.L. to all of his appointments, took care of his medication, and advocated for him at school.

Furthermore, the foster mother was open to facilitating continued supervised visits between respondent and M.L. Respondent's bond with M.L., developed over a few years during monthly supervised visits, does not overcome the evidence concerning M.L.'s well-being and attachment to his adoptive family. See In re Angela D. and Delilah A., 2012 IL App (1st) 112887, ¶37-41 (even though the biological mother had a bond with the girls, her parental rights were terminated because the resulting stability and security for the girls was in their best interests).

¶ 26 The circuit court was aware that respondent and M.L. had a bond, and M.L. wants the supervised visits with respondent to continue. Nevertheless, the circuit court weighed additional factors concerning M.L.'s developmental needs, safety and welfare, attachment to his foster family, and need for permanence, and determined that it was in M.L.'s best interests to terminate respondent's parental rights so that M.L. could be free for adoption.

¶ 27 We conclude that the State proved by a preponderance of the evidence that termination of respondent's parental rights was in M.L.'s best interests. The opposite conclusion was not

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clearly evident. Therefore, the circuit court's decision to terminate respondent's parental rights was not against the manifest weight of the evidence.

¶ 28

CONCLUSION

¶ 29 For the reasons explained above, we affirm the judgment of the circuit court.

¶ 30 Affirmed.